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REMARKS

Claims 1, 3-9, 32, 33 and 36-42 are currently pending in the subject application and are presently under consideration. It is noted that the Examiner has not acknowledged the new claims 32-35 presented in the previous response. Claims 1, 3-9, 32 and 33 have been amended and claims 34 and 35 have been cancelled. Claims 10-31 are withdrawn from consideration. New claims 36-42 have been added. A copy of the claims is found on pages 2-7 of the Response. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1, 3-9 Under 35 U.S.C. §103(a)

Claims 1 and 3-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Strom *et al.* (U.S. 4,642,607). This rejection should be withdrawn for at least the following reasons. Strom *et al.* does not teach or suggest all limitations set forth in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). *The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

The invention relates to a system for configuring, setting-up and programming devices utilizing at least a power line. Each network device (*e.g.*, programmable logic controller, machine, sensor) contains a power line interface to facilitate communication over a power line network. The configuring devices utilizing the interface could use the same local power line network or any other network such as WANs to connect to the

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local power line network of the network devices in order to configure or program them. To this end, independent claim 1 recites a system for controller configuration and programming comprising, a configuration device and a controller, *each of the configuration device and the controller utilize at least an interface to communicate over a power line and the network to enable remote controller configuration and programming and the interface implements a peer-to-peer communication.* Strom *et al.* fails to teach or suggest these novel features of the claimed invention.

Strom *et al.* relates to power line carrier communications system wherein a plurality of binary control modules communicate over a local power line system utilizing a store computer interface. The communication system disclosed by Strom *et al.* strictly follows a primary/secondary model wherein only one BCM has control of the network at a time (*See e.g.*, col. 4 lns. 26–27). In contrast, the interface disclosed in the subject invention facilitates implementation of a peer-to-peer network whereby the devices that utilize the interface can communicate directly with one another over the network (powerlines or WAN) without a need for a host computer. Moreover the interface disclosed in the subject application allows remote configuration of industrial controllers using a WAN connected to a local power line network. These aspects of the invention are neither taught nor suggested by Strom *et al.* In the absence of such teaching or suggestion, the Examiner is basing the rejection on the assertion that it would have been obvious to do something not suggested in the art because so doing would provide advantages stated in applicant's specification. Such rationale has been condemned by the CAFC. *See, for example, Panduit Corp. v. Dennison Manufacturing Co.*, 1 USPQ2d 1593 (Fed. Cir. 1987). In view of at least the above stated reasons this rejection should be withdrawn with respect to independent claim 1 and all the claims that depend there-from.

II. New Claims 36-42

Newly added claims 36-42 emphasize novel aspects of the invention discussed *supra* in connection with claims 1, 3-9, 32, and 33. Accordingly, these claims are patentably distinct over the art of record for at least the same reasons as are claims 1, 3-9, 32 and 33.

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CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP323US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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